

January 7, 2008 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, January 7, 2008 at 6:00 P.M.

Council President Paul M. Rodrigues, Presiding

Vice Chair Shirley R. Mello

Councillor Barbara A. Barrow

Councillor Louis P. DiPalma

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr., Members Present

Councillor Robert J. Sylvia, Absent

EXECUTIVE SESSION

Pursuant to the provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (5) land acquisition, (1) personnel, (2) potential litigation and (2) collective bargaining.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 6:01 P.M. to meet in executive session pursuant to docket item entered above.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reconvene this meeting in open session at 7:00 P.M.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to move forward with the land acquisition property.

On motion of Vice Chair Mello, duly seconded, it was voted to seek renegotiation of the Separation Agreement by having Mr. Kempen appear with or without his Attorney to discuss modification of the terms of the Separation Agreement; Councillors DiPalma and Silveira voted YES to said motion; Council President Rodrigues, Vice Chair Mello, Councillors Barrow and Santos voted NO; motion FAILED to pass.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to accept the Town Solicitor's recommendation pertaining to litigation.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

CONSENT CALENDAR

- 1. Memorandum of Interim Town Administrator, with enclosures, re:**

Tax Collector's Report for period ending November 30, 2007.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

2. Memorandum of Interim Town Administrator, with enclosures, re: Financial Statements for period ending November 30, 2007.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

3. Communication of Tax Assessor, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication.

4. Resolution of the Council, re: Authorizing cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

5. Memorandum of Interim Town Administrator, with enclosures, re: Award of contract for Financial Advisory Services.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

Antone Viveiros, 110 Indian Hill Road, inquired if First Southwest Company is the low and only bidder.

Interim Town Administrator Shawn Brown responded that First Southwest Company is the only business that provides this service to the state.

6. Resolution of the Council, re: Award of contract for Financial Advisory Services.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

7. Memorandum of Interim Town Administrator, with enclosures, re: Award of contract for Asphalt Roller.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

8. Resolution of the Council, re: Award of contract for Asphalt Roller.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

9. Memorandum of Interim Town Administrator, with enclosures, re: Town of Middletown Police/Fire Pre-Employment Drug Testing Policy.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

10. Resolution of the Council, re: Town of Middletown Police/Fire Pre-Employment Drug Testing Policy.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

11. Memorandum of Interim Town Administrator, with enclosures, re: Revisions to Suspected Misconduct/Honesty Policy/TRICARE information.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

12. Memorandum of Interim Town Administrator, with enclosures, re: Middletown's Pay As You Throw Program.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

Council President Rodrigues noted the success of the Pay As You Throw Program.

Maggie Bulmer, 3 Wood Road, addressed the Council expressing her support for the Pay As You Throw program, noting the Recycling Coordinator Will Cronin always responds in a timely fashion.

Antone Viveiros, 110 Indian Hill Road, expressed concern pertaining to Westgate condominium joining the Pay As You Throw program.

Vice Chair Mello noted concern that we are not at 95% as the past Administrator indicated.

Interim Town Administrator Shawn Brown responded that the 95% was based on the bins returned. The 75% is based on Waste Management pick up. It was also noted that recycling has increased by 50%. Mr. Brown believes the participation numbers may rise

within the next few months.

13. Communication of David A. Ursillo, Esquire, re: Notice of Claim to the Town.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication.

14. Communication of Nancy L. Freeman, Senior Environmental Scientist, Office of Water Resources, RI Dept. of Environmental Management, re: Freshwater wetlands preliminary determination for site along Chestnut Hill Road, extending west southwest from it's intersection with Brookdale Road, Utility Poles No. 2, 3 & 4, Assessor's Plat 107SE, including Lots 73 and 215.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication.

TOWN COUNCIL

1. Application of Colbea Enterprises, LLC, dba East Main Shell, 207 East Main Road, for a Victualling House License for the 2007-2008 licensing year. (NEW)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said license subject to the approvals of the Building Official, the Fire Marshall, Dept. of Public Works and the RI Department of Health.

2. Application of Colbea Enterprises, LLC, dba West Main Shell, 1149 West Main Road, for a Victualling House License for the 2007-2008 licensing year. (NEW)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said license subject to the approvals of the Building Official, the Fire Marshall, Dept. of Public Works and the RI Department of Health.

3. Public Hearing (Advertised)

Application of Colbea Enterprises, LLC, dba East Main Shell, 207 East Main Road, for Victualling House License – Additional Hours of Operation – for the 2007-2008 licensing year. (NEW)

Public Hearing was declared open.

There being no persons present desiring to be heard on this matter, public hearing was declared closed.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said license.

4. Public Hearing (Advertised)

Application of Colbea Enterprises, LLC, dba West Main Shell, 1149 West Main Road, for Victualling House License – Additional Hours of Operation – for the 2007-2008 licensing year. (NEW)

Public Hearing was declared open.

There being no persons present desiring to be heard on this matter, public hearing was declared closed.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said license.

5. Application of Middletown Senior Citizens Center, 650 Green End

Avenue, for RENEWAL of Bingo License for the 2008-2009 licensing year.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said license.

6. Memorandum of Town Planner, with enclosures, re: 2007 State Preservation Grant Award (Wetherbee School) and authorizing Town matching funds.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

7. Resolution of the Council, re: Approving 2007 State Preservation Grant Award and authorizing Town matching funds.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

Vice Chair Mello disqualified herself from acting on the next (2) items of business, #8 and #9 due to a possible conflict of interest.

8. Memorandum of Finance Director, with enclosures, re: Award of contract for Pile Removal & Final Clean Up @ Drive In Property.

On motion of Councillor DiPalma, duly seconded, it was voted unanimously to receive said memorandum.

9. Resolution of the Council, re: Award of contract Pile Removal & Final Clean Up @ Drive In Property.

Antone Viveiros, 110 Indian Hill Road, addressed the Council

expressing concern with the contract stating “Winter Conditions” noting the Town could be subject to a premium charge. Mr. Viveiros suggests the clean up to be performed in the spring.

On motion of Councillor DiPalma, duly seconded, it was voted unanimously to remove under “Notes” Winter Conditions.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution, as amended.

10. Memorandum of Interim Town Administrator, with enclosures, re: Award of contract for Public Notice and Environmental Site Assessment Activities for lot A of “The Landings” Site.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

11. Resolution of the Council, re: Award of contract for Public Notice and Environmental Site Assessment Activities of lot A of “The Landings” Site.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

12. Memorandum of Interim Town Administrator, with enclosures, re: Proposed Town Administrator Recruitment Process.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

Interim Town Administrator Shawn Brown informed the Council that they will need to select a search panel for the proposed Town Administrator Recruitment process. This matter will be heard at the next regular meeting of the Council, January 22, 2008.

It was confirmed that Human Resource Director Lynne Dible, would proceed with the advertising for a Town Administrator.

13. Communication of Antone C. Viveiros, 220 Indian Hill Road, re: Requesting to discuss Residential Zoning and Wind Turbines.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication.

14. Communication of Mark David Botello, Owner, Island Tattoo, West Main Road, re: Requesting to discuss current Tattoo ordinance.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication.

Mark Botello, 11 Elm Street, Newport, addressed the Council pertaining to the regulations of the Tattooing ordinance, noting that some sections within the ordinance make it hard for him to perform his Tattoo Art. Mr. Botello requests the Council to issue him a license at this time while the current ordinance is being reviewed.

Town Solicitor Francis Holbrook noted that the ordinance does need to be revised.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to issue Mr. Mark Botello a Town license after he has filed all the proper paper work with the Town Clerk including his current state license.

It was requested the Town Solicitor Francis Holbrook review the Tattoo ordinance.

15. Continued from December 10, 2007

E-mail communication of Councillor Silveira, re: Proposed process to formally honor our Town Employees and Residents involved in war efforts.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said e-mail communication.

Councillor Silveira requests to vote that the War Memorial Committee be charged to create a process to formally honor our Town Employees and Residents involved in the war effort.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to forward to the War Memorial Committee the project of creating a process to formally recognize our residents involved in the war efforts.

16. Memorandum of Councillor DiPalma, with enclosures, re: Request for Support of Future RI Open Space Bond Funding.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum.

17. Resolution of the Council, re: Support of Future RI Open Space Bond Funding.

Ted Clement, Executive Director, Aquidneck Land Trust, 790 Aquidneck Avenue, requests the Council to support for this resolution. Mr. Clement gave the Council a letter of support from the RI League of Cities and Towns entered here:

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution.

Councillor DiPalma requests the Town Clerk to forward resolution to the General Assembly and Governor.

18. Appointment of (1) member to the Middletown Personnel Board for a term expiring December 2010.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Kenneth A. Kurze to said board for a term expiring in December 2010.

19. Appointment of (1) member to the Middletown Tax Assessment Review Board for a term expiring October 2010. (Bi-Partisan Board)

Councillor Santos nominated Kimberly Sousa to serve on said board.

A vote was taken; Council President Rodrigues, Vice Chair Mello, Councillors DiPalma and Silveira voted for the appointment of Tracy Taber; Councillors Barrow and Santos voted NO. Tracy Taber is appointed to said board for a term expiring October 2010.

20. Appointment of (1) member to the Middletown Tree Commission for a term expiring January 2011.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Paul Lamond to said board for a term expiring in January 2011.

21. Appointment of Town Tree Warden for the 2008 calendar year.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Allan Kirby, 15 Ward Avenue, as Tree Warden for the 2008 calendar year.

22. Appointment of three (3) members to the Senior Citizens Board of Directors, each for a term expiring in January 2011.

Councillor Silveira nominated Alphonsa A. Cook and Shirley Anne Cook to serve on said board.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Karen A. MacNight to said board for a term expiring in January 2011.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Elizabeth A. Yashura to said board for a term expiring in January 2011.

On motion of Vice Chair Mello, duly seconded, it was voted

unanimously to appoint Eris Anderson White to said board for a term expiring in January 2011.

23. Appointment of three (3) members to the Economic Development Advisory Committee, each for a term expiring in January 2013.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Helen F. Flynn to said board for a term expiring in January 2013.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Thomas Kowalczyk to said board for a term expiring in January 2013.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to appoint Richard Cambra to said board for a term expiring in January 2013.

24. Appointment of two (2) members to the Beach Commission, each for a term expiring January 2010.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Helen F. Flynn to said board for a term expiring in January 2010.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint John Crimmins to said board for a term expiring in January 2010.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than

five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during this session.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 7:55 P.M. and to reconvene in executive session.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reconvene this meeting in open session at 8:16 P.M.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to approve the Memorandum of Understanding, as amended.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to appoint Attorney Dan Kinder to represent the Town in negotiations pertaining to collective bargaining.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to adjourn this meeting at 8:20 P.M.

Wendy J.W. Marshall, CMC

Council Clerk